

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

TRACI ST. CLAIRE,

Plaintiff,

v.

DITECH FINANCIAL, LLC, f/k/a  
GREEN TREE SERVICING, LLC,

Defendant.

CIVIL ACTION FILE NO.

1:17-CV-3370-AT-JFK

**ORDER**

Pending before the court is Defendant's motion [Doc. 11] to stay certain pretrial and discovery deadlines in the above-styled civil action pending the District Court's decision on Defendant's motion [Doc. 10] to dismiss the complaint pursuant to Fed. R. Civ. P. 12(b)(6) for failure to state a claim upon which relief can be granted. Defendant argues that the parties' Rule 26(f) early planning conference under LR 16.1, N.D. Ga., initial disclosures, and Preliminary Report and Discovery Plan should be temporarily stayed because the Court's ruling on the motion to dismiss may dispose of this action and that compliance with the above deadlines would be potentially

premature and an unnecessary expenditure of the parties' time and resources. [Doc. 11 at 2–3].<sup>1</sup>

L.R. 16.1, N.D. Ga., requires that, within sixteen (16) days after the appearance of a defendant by answer or motion and prior to filing the Joint Preliminary Report and Discovery Plan, the parties conduct a Rule 26(f) conference, in person, “in an effort to settle the case, discuss discovery, limit issues, and discuss other matters also addressed in the Joint Preliminary Report and Discovery Plan.” L.R. 16.2, N.D. Ga., requires the parties to file a Preliminary Report and Discovery Plan (“PRDP”) within thirty (30) days after the answer is filed by the defendant(s) if the case is not settled at the Rule 26(f) conference. In accordance with Fed. R. Civ. P. 26(a)(1) and L.R. 26.1, N.D. Ga., the parties' Initial Disclosures (“ID”) are due within thirty (30) days of the appearance of a defendant by answer or motion. And, “[i]n order to enable judges and magistrate judges of this court to evaluate possible disqualification or recusal,” L.R.

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<sup>1</sup> Defendant also asks for a stay of discovery deadlines. [Doc. 11 at 2–3]. The discovery period does not commence until thirty days after a Defendant has filed an answer. See LR 26.2, N.D. Ga.

3.3, N.D. Ga., requires all private (non-governmental) parties in civil cases to file a Certificate of Interested Persons (“CIP”) “at the time of first appearance.”<sup>2</sup>

The pretrial deadlines for the parties’ PRDP has not yet been triggered by a pleading or answer; and the court does not require the parties’ ID until the time the PRDP is due. Therefore, the motion for a stay of such pretrial deadlines does not require Plaintiffs’ response.

In addition, Defendant has shown good cause for staying the pretrial deadlines for the Rule 26(f) early planning conference and filing initial disclosures. And there are no issues of fact before the court at this time because Defendant’s challenges to the legal sufficiency of the complaint ““present[ ] a purely legal question [and] the allegations in the complaint are presumed to be true.”” Horsley v. Feldt, 304 F.3d 1125, 1131 n.2 (11<sup>th</sup> Cir. 2002) (quoting Chudasama v. Mazda Motor Corp., 123 F.3d 1353, 1367 (11<sup>th</sup> Cir. 1997) (finding no abuse of discretion where district court stayed discovery pending judgment on the pleadings)); and see Hardy v. Regions Mortgage, Inc., 449 F.3d 1357, 1359 (11<sup>th</sup> Cir. 2006) (on a motion to dismiss under Fed. R. Civ. P. 12(b)(6), the complaint’s factual allegations are assumed true and construed in the light most favorable to the plaintiff).


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<sup>2</sup> Neither party has filed the CIP.

The court **ORDERS** any party who has entered an appearance to file the CIP within **fourteen (14) days** of entry of this order if the CIP has not already been filed.

The court **GRANTS** the motion [Doc. 11] to stay the remaining pretrial deadlines pending the District Court's decision on Defendant's motion [Doc. 10] to dismiss the complaint. It is **ORDERED** that, if any issues remain in this action following the Court's ruling on the motion to dismiss, the parties' obligation to participate in a Rule 26(f) conference be stayed until sixteen (16) days after Defendant has filed an Answer; (2) that the parties' obligation to serve ID and file a PRDP be stayed until thirty (30) days after Defendant has filed an Answer; and (3) that the Discovery period shall commence thirty (30) days after Defendant has filed an Answer.<sup>3</sup>

**IT IS SO ORDERED** this 19<sup>th</sup> day of December, 2017.

  
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JANET F. KING  
UNITED STATES MAGISTRATE JUDGE

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<sup>3</sup>An answer would be due fourteen (14) days after the District Court's ruling on a Defendant's motion to dismiss. See Fed. R. Civ. P. 12(a)(4).